

## PART XVIII.

### THE INCUMBERED ESTATES ACTS.\*

† *Rules under the Broach and Kaira Incumbered Estates Act XXI of 1881.*

In exercise of the power conferred by section 31 of Act XIV of 1877, the Governor in Council is pleased to frame the following rules, viz:—

1. All subordinate officers entrusted under the said Act with the collection, receipt, or custody of moneys, or of any valuable property, shall furnish security to the extent of three years' salary. [B. G. G.,  
1877. pp. 731  
and 732.]

2. The order of management and the notices required to be issued under sections, 7, 12 and 26 of the Act shall be respectively in the Forms A, B and C, appended of these rules.

3. The Tálukdári Settlement Officer, or other Manager, appointed under the Act, shall make the enquiry prescribed by section 12, and prepare the Schedule of debts and liabilities and the liquidation scheme, required by section 17 in accordance with the following rules.

4. He shall ascertain the principal sum or sums originally or from time to time lent by each of the creditors severally, and this sum, or the aggregate of these sums, with 9 per cent. per annum simple interest on the amount, of each debt, from the time when each debt was incurred up to the date on which the order of management was published, shall be the amount to be awarded, but subject to the following conditions, (namely):—

(1.)—That the amount of interest shall in no case exceed that of the principal;

(2.)—That the heir in the second generation of the person who originally incurred the debt shall pay the principal only and no interest;

(3.)—That the amount to be assigned in settlement of bonds held for services rendered by the creditor shall be determined by the Manager after hearing evidence as to the nature and extent of the service in question;

(4.)—That no interest shall be allowed on debts, accounts relating to which are not produced to the satisfaction of the Manager;

(5.)—That when the amount of the original principal is not satisfactorily proved, a deduction of 50 per cent. shall be made from the amount of the debt as it stood at the first stage at the which satisfactory proof of the existence of the debt is given;

(6.)—That when no accounts are produced, the claim shall be disallowed, unless the debtor acknowledges the receipt of a sum in cash, in which case that sum shall be treated as the principal of the debt, but no interest shall be allowed;

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\*The rules under B. VI of 1862 are placed at the end of this Part.

† These rules were made under section 31 of XIV of 1877. But under section 2 of Act XXI of 1881, all rules made under XIV of 1877, are deemed to have been made and published under Act XXI of 1881. (Memo. of Acting L. R. quoted, G. R. 2274, 6th April 1882, R. D.)

(7.)—That interest shall not be allowed on account-debts in the absence of any writing showing that interest on such debts should be allowed;

(7a.)—A claim supported by a decree of a Civil Court shall be subject to the same enquiry as any other claim; but in cases where it shall appear to the Manager that the suit was contested, and that the amount awarded either on account of principal or interest by the decree does not exceed by more than 25 per cent. the amount which could have been awarded by the Manager, if no such decree had been passed, the amount so awarded may be allowed, provided clause 1 of this rule be not infringed. But if interest subsequent to decree be claimed, it shall be calculated as if no decree had been passed.

(8.)—That all payments made by the Thákur to any creditor, and all profits which have been enjoyed by such creditor towards the liquidation of any debt or liability before the date of the order of management, shall be deducted from the principal sum of the said debt or liability, and interest on the amount so deducted shall be disallowed from the time of such payment or enjoyment, and the Manager shall determine the amount of profits realized under such enjoyment after examining such proofs as may be produced before him;

(9.)—That if the principal of all the debts due by any Thákur with simple interest at 9 per cent. shall exceed the amount which it is estimated will be available for the settlement of the creditors' claims, subject to the provisions of section 11 of the Act, during a period of twenty years, no interest shall be allowed on such debts as were not incurred by the present Thákur; and that if after disallowing interest on such debts the amount necessary to liquidate the whole of the debts be still in excess of the amount estimated to be available for their liquidation, the rate of interest to be awarded on the remaining debts shall be decreased until the aggregate amount of capital and interest payable falls within the requisite limit.

5. Whenever a bond or decree or other claim has been transferred by sale, gift or otherwise from the original holder to any other person, the present holder thereof must support his claim by the same proofs as if he were the original holder.

6.—All admitted debts shall be satisfied proportionately in the following order:—

1st.—Money lent on the security of the estate.

2nd.—Decreed and bonded debts.

3rd.—Account debts.

7. In deciding what claims are admissible, and to what amount they shall be admitted, the manager may appoint a Committee of experienced natives—consisting of three persons of whom one only shall be in the service of Government—to assist him, and may re-imburse the said Committee their necessary expenses out of percentage of the rents and profits which he may receive to be reserved by him to cover

(Notn. No.  
4113, B.G.G.,  
1878, p. 502.)

(Notn. No.  
1113, B. G.  
2., 1878, p.  
502.)

these and similar charges connected with the discharge of his duties.

8. If the creditors of any debtor themselves produce a schedule of the original sums lent by them severally, signed by the debtor, and both parties assent to the said schedule in presence of the Manager, the Manager may accept such schedule without further investigation, and make it the basis of the liquidation scheme.

9. If the creditors agree to accept a sum of money from the Manager in immediate satisfaction of all their claims against the debtor, and the Manager shall determine to borrow money from Government for the purpose of making such payment, the Manager shall, on receipt of the orders of Government sanctioning such loan, order payment to be made to the creditors from the Government Treasury, provided that the creditors shall first severally pass receipts in full for all their claims, and that if any fraud is subsequently discovered to have been committed by any creditor in respect to any money received by him under this rule, such creditor shall be liable to forfeit all sums so received, and all claim to further compensation for any debt due to him which may have been notified to the Manager for satisfaction under the Act. The interest chargeable on such loan shall be at the rate of 5 per cent. per annum, or at such rate as may be specially fixed by the Manager with the sanction of Government and shall be repayable together with the amount of the loan as provided in section 11 of the Act. (Notn. No. 2274, B. G. G., 1882, p. 239.)

10. In estimating the amount of cash to be paid under the last rule in immediate satisfaction of admitted claims, the following points are to be considered (namely):— (Notn. No. 2485, B. G. G., 1879, pp. 528-529.)

(a) The income of the debtor, the amount of the debt, and the probability or improbability that the creditor would have been able to recover his debt if the Act had not been passed,

(b) The nature of the particular debt,

(c) The period for which the debt had been outstanding,

(d) The interest hitherto enjoyed by the creditor, the rate of interest originally fixed, and the proportion between the amounts due as principal and interest respectively at the present time.

11. If at any time the condition of a Thákur's estate shall be found sufficiently prosperous, the Commissioner may make such further awards beyond what is permitted by the previous rules as the circumstances shall seem to him to warrant.

12. The fact of his having sanctioned a liquidation scheme shall be notified by the Commissioner under section 20 of the Act by a written notice in English and Gujaráti, which shall be published in the *Bombay Government Gazette*, and of which one copy shall be affixed in the Court of the Subordinate Judge within whose jurisdiction the debtor resides or the bulk of his estate is situated and one copy in the Court of the District Judge to whom such Judge is subordinate. (Notn. No. 934, B. G. G., 1879, p. 124.)

## APPENDIX A.

*Order of Management to be issued under section 7.*

WHEREAS (here enter the name and description of the applicant in full, and when he is not himself the Thákur, state whether he is the sole heir, or one of the heirs of the Thákur) has made an application to me under section 4 of the Broach and Kaira Incumbered Estates Act, 1881, requesting that the provisions of the said Act be applied to his case (or to the case of

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And whereas upon enquiry it appears to me expedient that the provisions of the said Act should be so applied;

I do hereby direct that the immoveable property of the said shall be managed and his debts liquidated in the manner provided in the said Act by the Tálukdári Settlement Officer (or by

Dated this

day of

18

(Signed)

Commissioner, N. D.

## APPENDIX B.

*Notice under section 12.*

No.

*Station and date.*

WITH reference to the order of the Commissioner, N. D., published at page of the *Bombay Government Gazette* of the 18 , directing that the immoveable property of

be managed and his debts liquidated by me under the provisions of Act XXI of 1881, I hereby give notice and require under section 12 of the said Act, that all persons having claims against the said , or against the said property under my management, shall notify the same in writing to me within six months from the date of the publication of this notice.

The attention of intending claimants is called to the requirements of section 13 of the said Act.

Description of property, situation, and boundaries.

Tálukdári Settlement Officer,  
(or Manager.)

## APPENDIX C.

*Notice under section 26.*

No.

*Station and date.*

WHEREAS the management of the immoveable property of was, by order of the Commissioner, N. D., published at page of the *Bombay Government Gazette*, dated the day of 18 , vested in me as the Manager appointed under Act XXI of 1881, and whereas all the debts and liabilities of the said mentioned in the liquidation scheme framed under the provisions of the said Act have been liquidated as therein provided (or in accordance with the orders of the said Commissioner), notice is hereby given under section 26 of the said Act, that my management of the said estate will terminate on the

Description of property, situation, and boundaries.

Tálukdári Settlement Officer,  
(or Manager.)

or else the following (as the case may be) :—

No.

*Station and date.*

Whereas the management of the immoveable property of was, by Government notification published at page of the *Bombay Government Gazette*, dated the , vested in the Tálukdári Settlement Officer as the Manager appointed under Act XV of 1871, and whereas all the debts and liabilities of the said mentioned in the liquidation scheme framed under the provisions of the said Act, have been liquidated as therein provided; notice is hereby given, under section 26 of Act XXI of 1881, that the management of the said estate by the undersigned will terminate on the

Tálukdári Settlement Officer.

[To be substituted for the Rules under the Sind Encumbered Estates Act (XX) of 1881, published at pages 539 to 542 of the Compilation of General Rules in force in the Revenue Department.]

## RULES UNDER THE SIND ENCUMBERED ESTATES ACT, XX OF 1896.\*

1. All subordinate officers entrusted under this Act with the collection, receipt, or custody of moneys or valuable properties shall furnish security to the extent of three years' salary. [S. O. G.,  
1897, pages  
448-449].

2. The notices required to be issued under Sections 12 and 27 shall be in the forms A. and B., appended to these Rules.

3. Every Manager appointed under Section 7 (2) (c) of this Act shall make the enquiry prescribed by Section 15, and shall prepare the schedule of debts and liabilities, and the scheme for the settlement thereof required by Section 17 in the following manner.

4. He shall ascertain the principal sum or sums originally or from time to time lent by each of the creditors severally, and this sum or these sums, with 9 per cent. per annum simple interest from the time when the debt was incurred up to the date on which the order provided for in Section 8 of the Act is published, and no further, shall in each case be the amount awarded, but subject to the following conditions:

I. The amount of interest shall in no case exceed that of the principal.

II. The heir in the second generation of the person who originally incurred the debt to pay the principal only, and no interest.

III. The amount assigned in settlement of bonds held for service rendered by the creditor to be determined by the Manager, after hearing evidence of the service in question.

IV. No interest to be allowed on debts whose accounts to the satisfaction of the Manager are not produced.

V. When the first principal is not satisfactorily proved, a deduction of 50 per cent. to be made from the amount of the debt as it stands at the first stage at which satisfactory proof of the existence of the debt is given.

VI. When no accounts are produced, the claim shall be disallowed, unless the Manager is satisfied that the debtor has received a sum in cash, in which case that sum shall be treated as the principal of the debt, but no interest shall be allowed.

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\* These Rules, made under Section 33 of Act XX of 1896, have been substituted for the Rules which were originally made under section 30 of Act XIV of 1876, and were kept alive by Section 2 of Act XX of 1881. For such Rules publication in the Sind Official Gazette alone is required. Cf. Section 33 (2) of Act XX of 1896.

VII. Interest not to be allowed an account of debts in the absence of any specification that it shall be allowed.

VIII. A claim supported by a decree of a Civil Court shall be subject to the same enquiry as any other claim; but in cases where it shall appear to the Manager that the suit was contested, and that the amount awarded either on account of principal or interest by the decree does not exceed by more than 25 per cent. the amount which could have been awarded by the Manager, if no such decree had been passed, the amount so awarded may be allowed, provided Rule 4, Clause I, be not infringed. But if interest subsequent to decree be claimed, it shall be calculated as if no decree had been passed.

5. All payments made by the Jágirdár or Zamindár to any creditor, or profits which have been enjoyed by such creditor towards the liquidation of any debt or liability before the settlement under the Act, shall be deducted from the principal sum of the said debt or liability, and interest on an amount equal to such deducted sum shall be disallowed from time of such payment or enjoyment, and the Manager shall be competent to decide on the amounts of profits realized under such enjoyment, after examining such proofs as are presented to him.

6. Whenever a bond or decree or other claim has been transferred by sale, gift, or otherwise from the original holder to any other person, the present holder shall be called upon to support his claim by the same proofs as if he were the original holder.

7. All admitted debts shall be satisfied proportionately in the following order:—

1st—Money lent on the security of the estate.

2nd—Decreed and bonded debts.

3rd—Account debts.

8. If the principal of all the debts, with simple interest at 9 per cent., shall exceed the amount which may be estimated to be available for the settlement of the creditors' claims as provided for in Section 11 of the Act during the period the estate shall be under management, then no interest shall be allowed on such debts as were not incurred by the present Jágirdár or Zamindár. If the amount be then still in excess of the aforesaid amount, the rate of interest to be awarded on the remaining debts shall be decreased until their amount falls within the requisite limits. For the purposes of calculation under this Rule, (20) twenty years shall be taken as the limit of the period of management.

9. In deciding what claims are admissible for settlement, and to what amount they shall be admitted, it shall be competent to the Manager to appoint a Committee of experienced Natives—consisting of three persons, of whom one only shall be in the service of Government—to assist him, and it shall further be competent to the Manager to reimburse

the said Committee for their necessary expenses out of a percentage to be reserved on the rents and profits which the Manager may receive to cover all charges arising directly from the special nature of his duties.

10. Provided, however, that, if the creditors of any estate shall of themselves produce a schedule of the original sums lent by them severally, signed by the debtor, and both parties shall consent to the said schedule in presence of the Manager, it shall be competent to the said Manager to accept such schedule without further investigation, and to make it the basis of the settlement.

11. In estimating the amount of cash composition to be paid for admitted claims, the following points should be considered:

(a) The income of the debtor, the amount of the debt, and the probability that the creditor would have been able to recover his debt if this Act had not been passed.

(b) The nature of his particular debt.

(c) The period for which the debt had been outstanding.

(d) The interest hitherto enjoyed by the creditor, the rate of interest originally fixed, and the proportion between the amounts due as principal and interest, respectively, at the present time.

12. When the condition of an estate shall be found sufficiently prosperous, it shall be competent to the Commissioner in Sind to make such further awards beyond what is permitted by the previous rules as the circumstances shall seem to warrant.

## APPENDIX A.

*Notice under Section 12 of XX of 1896.*

No.

*Station and date*

Whereas the management of the undermentioned estate belonging to (*name and father's name*) has, by order of the Commissioner in Sind, dated , been vested in me as the Manager appointed under Act XX of 1896 :

I hereby give notice and require, under Section 12 of the said Act, that all persons having claims against the said , or against the said property under my management, shall notify the same in writing to me within six months from the date of the publication of this Notice.

Every claimant is hereby required to present full particulars of his claim, and to produce at the same time, or to cause to be produced, every document or book containing any entry regarding his claim, on which he may found such claim or on which he may rely in support thereof.

*Description of property, situation and boundaries.*

Manager.

## APPENDIX B.

*Notice under Section 27 of Act XX of 1896.*

No.

*Station and date*

Whereas the management of the undermentioned estate belonging to was, by order of the Commissioner in Sind, dated , vested in me as the Manager appointed under Act XX of 1896, and whereas all the debts and liabilities of the said estate have been paid and discharged :

Notice is hereby given under Section 27 of the said Act that my management of the said estate will terminate on the (*date of termination*).

*Description of property, situation and boundaries.*

Manager.



[To be substituted for the final paragraph of Appendix A to the Rules under the Sind Encumbered Estates Act, XX of 1896, substituted for those published at pages 539 to 542 of the Compilation of General Rules in force in the Revenue Department.]

G., 1899,  
383.] “Every claimant is hereby required, when notifying his claim, to present along with the notification, full particulars of his claim, and to produce at the same time, or cause to be produced, every document or book containing any entry regarding his claim, on which he may found such claim or on which he may rely in support thereof.

*Description of property, situation and boundaries.”*

*\*Rules under the Sind Incumbered Estates  
Act XX of 1881.*

1. All subordinate officers entrusted under this Act with the collection, receipt, or custody of moneys or valuable properties shall furnish security to the extent of three years' salary. (S.O.G., 1877, p. 360-361.)

2. The notices required to be issued under sections 12 and 26 shall be in the Forms A and B appended to these Rules.

3. Every Manager appointed under section 6 of this Act should make the enquiry prescribed by section 12, and shall prepare the schedule of debts and liabilities, and the scheme for the settlement thereof required by section 17 in the following manner.

4. He shall ascertain the principal sum or sums originally or from time to time lent by each of the creditors severally, and this sum or these sums, with 9 per cent. per annum simple interest from the time when the debt was incurred up to the date on which the order provided for in section 8 of the Act is published, and no further, shall in each case be the amount awarded, but subject to the following conditions :—

I.—The amount of interest shall in no case exceed that of the principal.

II.—The heir in the second generation of the person who originally incurred the debt, to pay the principal only and no interest.

III.—The amount assigned in settlement of bonds held for services rendered by the creditor to be determined by the Manager after hearing evidence of the service in question.

IV.—No interest to be allowed on debts whose accounts to the satisfaction of the Manager are not produced.

V.—When the first principal is not satisfactorily proved, a deduction of 50 per cent. to be made from the amount of the debt as it stands at the first stage at which satisfactory proof of the existence of the debt is given.

VI.—When no accounts are produced, the claim shall be disallowed, unless the debtor acknowledges the receipt of a sum in cash, in which case that sum shall be treated as the principal of the debt, but no interest shall be allowed.

VII.—Interest not to be allowed on account of debts in the absence of any specification that it shall be allowed.

VIII.—A claim supported by a decree of a civil court shall be subject to the same enquiry as any (S.O.G., 1878, July to Dec., p. 89.)

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\* These Rules were made under section 30 of XIV of 1876, but are kept alive by section 2 of XX of 1881, for such rules publication in the S. O. G. alone is required.

other claim; but in cases where it shall appear to the Manager that the suit was contested, and that the amount awarded either on account of principal or interest by the decree does not exceed by more than 25 per cent. the amount which could have been awarded by the Manager, if no such decree had been passed, the amount so awarded may be allowed, provided rule 4, clause 1, be not infringed. But if interest subsequent to decree be claimed, it shall be calculated as if no decree had been passed.

5. All payments made by Jágirdár or Zamindár to any creditor, or profits which have been enjoyed by such creditor towards the liquidation of any debt or liability before the settlement under the Act, shall be deducted from the principal sum of the said debt or liability, and interest on an amount equal to such deducted sum shall be disallowed from time of such payment or enjoyment, and the Manager shall be competent to decide on the amounts of profits realized under such enjoyment after examining such proofs as are presented to him.

6. Whenever a bond or decree or other claim has been transferred by sale, gift, or otherwise from the original holder to any other person, the present holder shall be called upon to support his claim by the same proofs as if he were the original holder.

7. All admitted debts shall be satisfied proportionately in the following order :—

*1st.*—Money lent on the security of the estate.

*2nd.*—Decreed and bonded debts.

*3rd.*—Account debts.

8. If the principal of all the debts with simple interest at 9 per cent., shall exceed the amount which may be estimated to be available for the settlement of the creditors' claims as provided for in section 11 of the Act during the period the estate shall be under management, then no interest shall be allowed on such debts as were not incurred by the present Jágirdár or Zamindár. If the amount be then still in excess of the aforesaid amount, the rate of interest to be awarded on the remaining debts shall be decreased until their amount falls within the requisite limit. For the purposes of calculation under this rule, (20) twenty years shall be taken as the limit of the period of management.

9. In deciding what claims are admissible for settlement, and to what amount they shall be admitted, it shall be competent to the Manager to appoint a Committee of experienced Natives—consisting of three persons, of whom one only shall be in the service of Government—to assist him, and it shall further be competent to the Manager to reimburse the said Committee for their necessary expenses out of a percentage to be reserved on the rents and profits which the Manager may receive to cover all charges arising directly from the special nature of his duties.

10. Provided, however, that if the creditors of any estate shall of themselves produce a schedule of the original sums lent by them severally signed by the debtor, and both parties shall consent to the said schedule in presence of the Manager, it shall be competent to the said Manager to accept such schedule without further investigation, and to make it the basis of the settlement.

11. If the creditors shall agree to accept a sum of money from the Manager in immediate satisfaction of all their claims on any estate, and the Manager shall determine to borrow money from Government for the purpose of meeting such payment, it shall be competent for the Manager, on receipt of the orders of the Commissioner in Sind sanctioning such loan, to order payment to be made to the creditors from the Government Treasury, provided that the creditors shall first severally sign receipts in full for all their claims on the estate, and that if any fraud is subsequently discovered to have been committed by any creditor, in respect to any money received by him under this rule, such creditor shall be liable to forfeit all sums so received, and all claim to further compensation for any debt due to him which may have been notified to the Manager for satisfaction under this Act. And all sums advanced by Government under this rule, shall be recovered from the estate in the same manner as other debts due, or liabilities incurred, to the Crown or Government may be recovered under this Act.

12. In estimating the amount of cash composition to be paid for admitted claims, the following points should be considered :—

(a).—The income of the debtor, the amount of the debt, and the probability that the creditor would have been able to recover his debt if this Act had not been passed.

(b).—The nature of this particular debt.

(c).—The period for which the debt had been outstanding.

(d).—The interest hitherto enjoyed by the creditor, the rate of interest originally fixed, and the proportion between the amounts due as principal and interest, respectively, at the present time.

13. Advances made with the object of facilitating the settlement of the claims against any Jágirdár or Zamindár's estate brought under the provisions of the said Act shall, when the Commissioner in Sind shall so direct, be chargeable with interest at the rate of (5) five per cent.

14. When the condition of an estate shall be found sufficiently prosperous, it shall be competent to the Commissioner in Sind to make such further awards beyond what is permitted by the previous rules as the circumstances shall seem to warrant.

*Opinion of the Advocate General.*—When an estate is held jointly by a person who is a Zamindár under the Sind Incumbered Estates' Act (XX of 1881) and by one who is not a Zamindár under the definition in the Act, the estate cannot legally be placed under management. Section 8 of the Act enacts that the order of management "shall extend to all immoveable property of or to which the debtor is on the date of its publication possessed or entitled in his own right, &c." Now when property is held by the persons jointly neither of them can be said to be possessed or entitled to any portion of that property in his own right, for they are each of them interested in every portion of it. Moreover the provisions of Chapters III, IV and V of the Act are absolutely inconsistent with any person other than the Zamindár being interested in the property put under management. The Zamindár is entitled to have the estate partitioned and after partition he would be entitled to the benefit of the Act in respect of the portion allotted to him (Accompaniment to G. R. 6869, 15th September 1883, R. D.).

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*Expended advances before sanction of liquidation scheme.*

Memo. of L. R.—Expended advances made before a liquidation scheme is sanctioned are part of the "costs of the management" and by clause (1), Section 11 of Act XX of 1881, they are made a first charge upon the sums received or recovered by the manager under Section 10, whether before or after a liquidation scheme is sanctioned. They may, therefore, be recovered before an order is made under Section 19 of the Act for relinquishing the estate, by the exercise of any of the powers with which the manager is invested by Section 10 previous to the sanction of a liquidation scheme. One of these powers is the grant of a lease for any term not exceeding two years of the whole or any part of the property under management. (G. R. No. 4166, 23rd May 1884, R. D.)

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APPENDIX A.

NOTICE UNDER SECTION 12 OF ACT XX OF 1881.

No.

*Station and date.*

Whereas the management of the undermentioned estate, belonging to (name and father's name) has, by order of the Commissioner in Sind, dated \_\_\_\_\_, been vested in me as the Manager appointed under Act XX of 1881,

I hereby give notice and require, under Section 12 of the said Act, that all persons having claims against the said \_\_\_\_\_, or against the said property under my management, shall notify the same in writing to me within six months from the date of the publication of this notice.

Every claimant is hereby required to present full particulars of his claim, and to produce at the same time or to cause to be produced every document or book containing any entry regarding his claim, on which he may found such claim or on which he may rely in support thereof.

Description of property, situation and boundaries.

*Manager.*

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APPENDIX B.

NOTICE UNDER SECTION 26 OF ACT XX OF 1881.

No.

*Station and date.*

Whereas the management of the undermentioned estate, belonging to \_\_\_\_\_ was, by order of the Commissioner in Sind, dated \_\_\_\_\_, vested in me as the Manager appointed under Act XX of 1881, and whereas all the debts and liabilities of the said estate have been paid and discharged, notice is hereby given under Section 26 of the said Act, that my management of the said estate will terminate on the (date of termination.)

Description of property, situation, and boundaries.

*Manager.*

## SPECIAL LOCAL LAWS.

## \* RULES UNDER SECTION 6 OF BOMBAY ACT VI OF 1862.

The officer or officers who are to be appointed under section 1 of the Act shall prepare the scheme mentioned in section 10 of the Act in the following manner :—

1. The officer or officers shall ascertain the principal sum originally lent by each of the creditors severally, and this sum, with 9 per cent. per annum simple interest from the time when the debt was incurred up to the date on which the declaration provided for in section 1 of the Act shall be made, and no further, shall in each case be the amount awarded, but subject to the following conditions :—

I. The amount of interest shall in no case exceed that of the principal.

II. The heir in the second generation of the person who originally incurred the debt to pay the principal only, and no interest.

III. The amount assigned in settlement of bonds held for services rendered by the creditor, to be determined by the Settling Officer after hearing evidence of the service in question.

IV. No interest to be allowed on debts where accounts to the satisfaction of the Settling Officer are not produced.

V. When the first principal is not satisfactorily proved, a deduction of 50 per cent. to be made from the amount of the debt as it stands at the first stage at which satisfactory proof of the existence of the debt is given.

VI. When no accounts are produced the claim shall be disallowed, unless the debtor acknowledges the receipt of a sum in cash, in which case that sum shall be treated as the principal of the debt, but no interest shall be allowed.

VII. Interest not to be allowed on account debts in the absence of any specification that it shall be allowed.

VIII. A claim supported by a decree of a Civil Court shall be subject to the same enquiry as any other claim ; but in cases where it shall appear to the Settling Officer that the suit was contested, and that the amount awarded either on account of principal or interest by the decree does not exceed by more than 25 per cent. the amount which could have been awarded by the Settling Officer, if no such decree had been passed, the amount so awarded may be allowed, provided clause I of this rule be not infringed. But if interest subsequent to decree be claimed, it shall be calculated as if no decree had been passed. (G. R. No. 4113, 14th August 1878, R. D.)

2. All payments made by the Talukdár to any creditor, or profits which have been enjoyed by such creditor, towards the liquidation of any debt or liability, before the settlement under the Act, shall be deducted from the principal sum of the said debt or liability, and interest on an amount equal to such deducted sum shall be disallowed from the time of such payment or enjoyment ; and the Settling Officer shall be competent to decide on the amount of profits realized under such enjoyment, after examining such proofs as are presented to him.

3. Whenever a bond, a decree, or other claim has been transferred by sale, gift, or otherwise, from the original holder to any other person, the present holder shall be called upon to support his claim by the same proofs as if he were the original holder.

4. When profits or income arising from a Talukdár's estate have been divided into shares, and it has been customary to consider each share separately liable for the debts of the proprietor of that share, a separate settlement shall be made of the debts of each sharer, instead of for the whole estate.

5. All admitted debts shall be satisfied proportionately in the following order :—

1st.—Money lent on the security of the estate.

2nd.—Decreed and bonded debts.

3rd.—Account debts. (G. R. No. 4113, 14th August 1878, R. D.)

6. If the principal of all the debts, with simple interest at 9 per cent., shall exceed the amount which may be estimated to be available for the settlement of the creditor's claims, as provided for in Section VII of the Act, during the period the estate shall be under management, then no interest shall be allowed on such debts as were not incurred by the present Talukdár. If the amount be then still in excess of the aforesaid amount,

\* N.B. " Rules under section 6 of Bombay VI. of 1862, need not be published in the G. G." (G. R. No. 4113, 14th August 1878, R. D.)

Section 34 of Bombay VI of 1888 provides that no new declaration shall be made under section 1 of Bombay Act VI of 1862 at any time after six months from the date on which Bombay VI of 1888 came into force. These rules therefore will probably soon become obsolete.

the rate of interest to be awarded on the remaining debts shall be decreased until their amount falls within the required limit.

7. In deciding what claims are admissible for settlement, and to what amount they shall be admitted, it shall be competent to the Settling Officer to appoint a Committee of experienced Natives, consisting of three persons, of whom one only shall be in the service of Government, to assist him, and it shall further be competent to the Settling Officer to reimburse the said Committee for their necessary expenses out of a percentage to be reserved on the rents and profits which the Settling Officer may receive to cover all charges arising directly from the special nature of his duties.

8. Provided, however, that if the creditors of any estate shall of themselves produce a schedule of the original sums lent by them severally, signed by the debtor, and both parties shall consent to the said schedule in presence of the Settling Officer, it shall be competent to the said officer to accept such schedule without further investigation, and to make it the basis of his settlement.

9. During the period the estate may be under management, the Tálukdár shall not, unless for special reasons to be reported to Government, be displaced from the internal management of his estate, but he shall in regard to every thing relating to the said management, be subject to the supervision of the Settling Officer, who shall be fully authorized to take any steps which he may think advisable to ascertain and secure the full value of the yearly revenues of the estate or estates.

10. In the case of villages or lands held by superior Chiefs in virtue of mortgages or loan transactions, it shall be competent to the Settling Officer, with a view to avoiding undesirable agitation, to effect any compromise with regard to the possession of the village or the land which may meet the consent of both parties.

11. Where Wanta lands which may be admitted by Government to be held as transferable property which the holder may charge or alienate, shall be found to have been at the passing of this Act in the *bonâ fide* possession and enjoyment of any mortgagée in satisfaction of any claims secured upon such lands, such unsatisfied claims shall be satisfied in full from the rents and profits of such lands on which they are secured, next after any claims of Government on the said lands, and to such amount as shall be proved and established under the foregoing rules.

12. If the creditors shall agree to receive a sum of money from the Government Treasury in immediate satisfaction of all their claims on any estate, it shall be competent for the officer appointed under section 1 of the Act, with the sanction of Government, to order such payment, provided that the creditors shall first severally sign receipts in full for all their claims on the estate, and that if any fraud is subsequently discovered to have been committed by any creditor in respect to any money received by him under this rule, such creditor shall be liable to forfeit all sums so received, and all claim to further compensation for any debt due to him which may have been notified to the said Officer for satisfaction under this Act. And all sums advanced by Government under this rule shall be recovered from the estate, in the same manner as other debts due or liabilities incurred to the Crown or Government may be recovered under this Act.

13. The notification of any claim under section 8 of the said Act shall be understood to denote the statement of such claim before the Settlement Officer, accompanied by all such proofs and original documents required under the preceding rules, as it is the intention of the claimant to produce in support of the same. (Extra rule sanctioned, May 6th, 1863).

14. Advances made with the object of facilitating the settlement of the claims against any tálukdári estate brought under the provisions of the said Act shall, when the Governor in Council shall so direct, be chargeable with interest at 5 per cent. per annum. (Extra rule, Government Resolution No. 2080, June 2nd, 1864):

15. When the condition of an estate shall be found sufficiently prosperous, it shall be competent to the Governor in Council to make such further award beyond what is permitted by the previous rules as the circumstances shall seem to warrant. (Extra Rule, Government Resolution No. 299, January 25th, 1865).